vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4954 OF 2005

State Bank of India ... Petitioner

V/s.

Sir Harkissondas Narottam
Hospital & Research Centre ... Respondent

Mr.P.K. Dhakephalkar i/b M/s.Utangale & Co. for Petitioner
Mr.R.A. Dada with Miling Sathe & A.H. Gokhale i/b A.S. Dayal & Associates for Respondent

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **OCTOBER 4, 2005**

P.C.:

. The Petition has been filed to challenge the decree for eviction and the order dated 21.6.2004. The order rejects the appeal filed by the petitioner as it was filed after a delay. No application for condoning the delay was filed by the Petitioner and the appellate court rejected the appeal. The contention of the Petitioner is that the appellate Court ought not to have rejected the appeal memo, this being a public institution.

2. The main reason for decreeing the suit is that the Petitioner is no longer entitled to the protection

available to a tenant in view of the amendment to the Rent Act. This being the position, the Petition must vacate the premises. There is no dispute that the Petitioner has been in possession of the suit premises after the decree was passed on 10.7.2003. Mr.Dhakephalkar, on instructions, states that the Petitioner-bank is willing to give an undertaking to the effect that it will vacate the suit premises by a stipulated date.

3. Mr.Dada, learned Counsel appearing for the Respondent, contends that it is a public charitable Trust running a hospital which requires the suit premises at the earliest. According to him, the Petitioner has been in possession of the same for over two years after the decree was passed and, therefore, no further indulgence should be shown to the Petitioner. Considering the rival contentions, I am of the view that the Petitioner must vacate the suit premises on or before 30.9.2006. The Petitioner shall file an affidavit of an authorised person within two weeks from today undertaking to vacate the suit premises by 30.9.2006 and a further undertaking that the Petitioner will not seek any extension of the stipulated time.

4. Writ Petition is disposed off in the above

terms.